

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7432 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

SHANKARBHAI DEVABHAI VAGHELA

Versus

COMMISSIONER OF POLICE

Appearance:

MR JS RATHOD for Petitioner

MR.NEEGAM SHUKLA,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order of detention dated 10.5.1996 passed by the Police Commissioner, Ahmedabad City whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act,1985. The detention order was executed on 10.5.1996 itself and since then the petitioner is under detention lodged at

Central Jail, Bhavnagar.

This Special Civil Application was filed on 30.9.1996 and on 13.10.1996 Rule returnable in two weeks was issued. So far no reply has been filed nor the affidavit of the Detaining Authority has been filed.

The grounds of detention enclosed with the detention order show that two criminal cases under the Prohibitions Act were registered against the petitioner. The Detaining Authority has also taken into consideration the statements made by certain witnesses with regard to the incident dated 14.4.1996 and 26.4.1996. The Detaining Authority found that the petitioner is a headstrong person and is a bootlegger, has been beating innocent people and it was necessary to pass the detention order to prevent him from continuing the antisocial activities.

The detention order has been challenged on more than one grounds but the stress has been laid by the learned counsel for the petitioner on the ground that it is not a case of breach of public order.

In view of the reasons given in the judgment and order dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that on the allegation and material relied upon by the Detaining Authority against the petitioner no case of breach of public order is made out and it is at the most a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 10.5.1996 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner forthwith if not required in any other case. Rule is made absolute.
